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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,332	06/29/2005	Paul McDonald	CE30944P	8249
22917	7590	07/31/2008		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196				
EXAMINER				
LEE, JUSTIN YE				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
07/31/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com
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Office Action Summary

Application No.

10/541,332

Applicant(s)

MCDONALD ET AL.

Examiner

Justin Y. Lee

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 13-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7 and 13-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to amendment filed on 6/2/08.

Drawings

2. The drawings were received on 6/2/08. These drawings are accepted.

Specification

3. The amendment to the Specification received on 6/2/08 are accepted.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 4, 7, and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations claimed in claims 4, 7, and 16 are not disclosed in the specification or drawings.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-7 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casaccia et al. (US 2002/0177432 A1) in view of Applicant Admitted Prior Art (hereinafter AAPA).

Consider claim 1, Casaccia et al. disclose a wireless communication system with congestion relief, the system comprising:

a plurality of communication devices (Fig. 1, MS 102-104) that include a call gapping list (paragraph 37-38, MS has call gapping data stored within), wherein the plurality of communication devices is configured to employ a call gapping process to block a call to a destination node on its call gapping list prior to making the call normally (paragraph 37-38, MS performs the received call gapping data before makes a normal call); and

a network entity operable to send a message containing a call gapping instruction to at least one communication device, wherein the call gapping instruction to be stored in the call gapping list that communication device (paragraph 38 and 49, BS 101 sends the call gapping data), wherein

the communication device is operable to initiate the call gapping process (paragraph 37-38).

Casaccia et al. do not disclose the call gapping data includes a list of destination nodes that are overloaded and need to be call blocked.

AAPA further disclose the call gapping data includes a list of destination nodes that are overloaded and need to be call blocked (page 6, lines 15-26, a network entity sends out call gapping list which includes phone numbers of the destination nodes that are overloaded and need to be call blocked).

Therefore, it would have been obvious to one skill in the art at the time the invention was made to utilize the teachings of AAPA into the teachings of Casaccia et al. for the purposes getting a list of destination nodes to be call blocked for more efficient use of network resources (AAPA, page 6, lines 15-26).

Consider claim 2, the combination further disclose wherein said call gapping instruction is sent to all exchange functions on a communication path to the destination node in order to initiate a call gapping process at all communication devices supported by hat particular exchange function (AAPA, Fig. 1-4).

Consider claim 3, the combination further disclose wherein the network entity sends call gapping instructions to communication devices recognized as heavier than normal communication resource users (Casaccia et al., paragraph 37-38).

Consider claim 4, the combination further disclose wherein the network entity sends different call gapping instructions to communication devices having different quality of service requirements (Casaccia et al., paragraph 37, different type of call group receives different type of call gapping data, for example, MS that uses data communication which requires high data rate and high bandwidth receives a call gapping data dedicated to data communication).

Consider claim 5, the combination further disclose wherein said network entity is operable to regularly send calling gap instructions to communication devices, and if a communication device does not receive a calling gap instruction within a predetermined period, the communication device removes any nodes in its calling gap list (Casaccia et al., paragraph 38-40).

Consider claim 6, the combination further disclose wherein said at least one call gapping instruction includes a first range of telephone numbers of an overloaded exchanged sent to the communication device whereupon the communication device initiates call blocking to any telephone number within the first range of telephone number (Casaccia et al., paragraph 37-38 and AAPA, page 6, lines 15-26).

Consider claim 7, the combination further disclose wherein said at least one call gapping instruction includes a second range of telephone numbers of an overloaded exchange sent to the mobile stations wherein the mobile stations do not block any calls

to telephone numbers within the second range of telephone number (Casacci et al., paragraph 51, emergency calls are the second range of telephone numbers which is not blocked).

Consider claims 13-17, claims 13-17 are the method of the system in claims 1-4 and 6 and have similar limitations. Therefore, please see rejections to claims 1-4 and 6 for detail.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Y. Lee whose telephone number is (571) 272-5258. The examiner can normally be reached on M - Thu 9:30 to 8:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Lee
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7/23/08

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